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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,782	03/31/2007	Paul Schliwa-Bertling	P18527-US1	1414
27045	7590	03/05/2010	EXAMINER	
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR 1-C-11 PLANO, TX 75024			ZHAO, WEI	
			ART UNIT	PAPER NUMBER
			2475	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<i>Advisory Action Before the Filing of an Appeal Brief</i>	Application No. 10/596,782	Applicant(s) SCHLIWA-BERTLING ET AL.	
	Examiner WEI ZHAO	Art Unit 2475	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 February 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: *On pages 10-15 of the Response with respects to claim 33, Applicants assert the prior art doesn't teach "determining a value of a length parameter related to the length of the queue; comparing the value with a length threshold value; performing a congestion notification procedure if the value is greater than the length threshold value, wherein the congestion notification procedure when performed drops or marks one or more data units; and performing an automatic threshold adaptation procedure, wherein the automatic threshold adaptation procedure comprises a procedure for adjusting the length threshold value on the basis of one or more flow control parameters, wherein the automatic threshold adaptation procedure determines when the congestion notification procedure would be performed to drop or mark one or more of the data units."*

The prior art teaches to provide a network device for processing data packets in a communications network, the device comprising a resource associated with a queue of data packets, and an apparatus for managing the data packet queue in accordance with the bandwidth-feedback mechanism as described herein (paragraph [0023] lines 1-6, Jeffries et al.). Common to all the above systems employing bandwidth feedback is that the feedback signal is based on average queue length, and this is then used directly to determine packet drop rates. While average queue length provides a useful indication of congestion status, using this directly to determine drop rates makes it difficult for network administrators to determine the correct parameter settings for operation of real networks (paragraph [0005] lines 1-8, Jeffries et al.). The availability of bandwidth is indicated by a bandwidth indicator which is generated by controller 6 by comparing the queue occupancy (represented here by the queue length L.sub.Q) with a threshold value (paragraph [0034] lines 23-26, Jeffries et al.). Congestion notifications are generated by core nodes using a queue-length thresholding technique based on a modified form of the RED (Random Early Detection) system. RED is an active queue management technique wherein an average queue length is compared with a minimum and a maximum threshold (paragraph [0004] lines 21-26, Jeffries et al.). The prior art further teach the techniques to monitor indicators of network conditions at a receiver component. When specific conditions are detected, the receiver adapts its threshold according to algorithms defined herein. As stated previously, a threshold is a value used by a receiver to determine whether the sender needs to increase or decrease the rate at which it puts data traffic into the network. The receiver compares an accumulated delay change sum (see FIG. 3) to the threshold value, and uses the result to respond to the sender's request for flow control feedback. Prior art receiver thresholds used static values. The dynamic threshold adaptation of the present invention enables the receiver to more accurately respond to the sender's requests for feedback (column [6] lines 39-52, Bird et al.). This monitor also detects the presence or absence of congestion in the network, and adjusts the threshold in response. A higher threshold is used when the network is not congested, so that more increase messages will be sent to the sender, requesting the sender to increase its transmission rate. Conversely, the threshold is lowered when congestion is detected, so that the sender will decrease the transmission rate (column [7] lines 14-21, Bird et al.).

Based on the fact, Examiner respectfully disagrees that the prior art cited does not teach the independent claim 33 as mentioned by Applicants. Independent claim 53 sets forth similar elements as claim 33's, so the prior art teaches claim 53. Furthermore, the cited passages teach dependent claims 34-52 and 54-64 as well. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

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Claim(s) allowed: _____.

Claim(s) objected to: _____.

/DANG T TON/
Supervisory Patent Examiner, Art Unit 2475

/Wei Zhao /
Examiner, Art Unit 2475